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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,215	01/22/2001	John Bertin	07334-142001/ MPI2000-003	3061

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EXAMINER

BRUMBACK, BRENDA G

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 03/18/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,215

Applicant(s)

BERTIN, JOHN

Examiner

Brenda G. Brumback

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, drawn to an isolated polypeptide comprising the amino acid sequence of SEQ ID NO:2, classified in class 530, subclass 350.
 - II. Claim 9 (in part), drawn to an isolated polypeptide encoded by the nucleic acid of SEQ ID NO:1, classified in class 530, subclass 350.
 - III. Claim 9 (in part), drawn to an isolated polypeptide encoded by the nucleic acid of SEQ ID NO:3, classified in class 530, subclass 350.
 - IV. Claims 10, 13, and 14, drawn to an antibody which selectively binds to a polypeptide of SEQ ID NO:2, classified in class 530, subclass 387.1.
 - V. Claims 11 and 12, drawn to methods of detecting the presence of a polypeptide of SEQ ID NO:2, classified in class 435, subclass 7.1.
 - VI. Claim 15, drawn to a method for identifying a compound that binds to a polypeptide of SEQ ID NO:2, classified in class 435, subclass 7.1.
 - VII. Claim 16, drawn to a method for identifying a compound that modulates the ability of a polypeptide of SEQ ID NO:2 to bind to Bcl-10, classified in class 435, subclass 7.1.
 - VIII. Claim 17, drawn to a method for identifying a compound that modulates the ability of a polypeptide of SEQ ID NO:2 to stimulate phosphorylation of Bcl-10, classified in class 435, subclass 7.1, for example.
 - IX. Claim 18, drawn to a method for identifying a compound that modulates the ability of a polypeptide of SEQ ID NO:2 to stimulate the activation of NF-kB, classified in class 435, subclass 7.1, for example.
 - X. Claim 19 (in part), drawn to a method for detecting the presence of a nucleic acid of SEQ ID NO:1 in a sample, classified in class 435, subclass 6.
 - XI. Claim 19 (in part), drawn to a method for detecting the presence of a nucleic acid of SEQ ID NO:3 in a sample, classified in class 435, subclass 6.

Art Unit: 1642

2. The inventions are distinct, each from the other because of the following reasons:

Inventions IV and V are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the antibody of Group IV can be used in the materially different process of affinity purification of proteins.


The products of Groups I-IV have different structures, different chemical compositions, and different immunological properties.

The methods of Groups V-XI are for different purposes, utilize different components, have different method steps, and have different outcomes.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda Brumback whose telephone number is (703) 306-3220. If the examiner can not be reached, inquiries can be directed to Supervisory Patent Examiner Anthony Caputa whose telephone number is (703) 308-3995. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Examiner Brenda Brumback, Art Unit 1642 and should be marked "OFFICIAL" for entry into prosecution history or "DRAFT" for consideration by the examiner without entry. The Official FAX telephone number is (703) 872-9306 and the After Final FAX telephone number is (703) 872-9307. FAX machines will be available to receive transmissions 24 hours a day. In compliance with 1096 OG 30, the filing date accorded to each OFFICIAL fax transmission will be determined by the FAX machine's stamped date found on the last page of the transmission, unless that date is a Saturday, Sunday or Federal Holiday with the District of Columbia, in which case the OFFICIAL date of receipt will be the next business day.


Brenda Brumback
Patent Examiner